

# Order

Michigan Supreme Court  
Lansing, Michigan

May 25, 2016

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2014-04

Stephen J. Markman

Brian K. Zahra

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein

Joan L. Larsen,

Justices

Amendments of Rule 2.306  
of the Michigan Court Rules

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On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 2.306 of the Michigan Court Rules are adopted, effective September 1, 2016.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

## Rule 2.306 Depositions on Oral Examination

(A)-(B) [Unchanged.]

(C) Conduct of Deposition; Examination and Cross-Examination; Manner of Recording; Objections; ~~Conferring~~ Communicating with Deponent.

(1)-(4) [Unchanged.]

(5) ~~Conferring~~ Communicating with Deponent.

- (a) A person may instruct a deponent not to answer only when necessary to preserve a privilege or other legal protection, to enforce a limitation ordered by the court, or to present a motion under MCR 2.306(D)(1).
- (b) A deponent may not ~~confer~~ communicate with another person while a question is pending, except to decide whether to assert a privilege or other legal protection.
- (c) For purposes of this rule, “communicate” includes electronic communication conducted by text message, email or other transmission using an electronic device.

(D)-(G) [Unchanged.]

*Staff Comment:* The amendments of MCR 2.306(C)(5) and (C)(5)(b) replace references to the word “conferring” or “confer” with “communicating” or “communicate.” The amendment of MCR 2.306(C)(5)(c) clarifies that the term “communicate” includes electronic transmission by text message, email or other electronic manner.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 25, 2016

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk